

OGC 73-2265

6 December 1973

## OGC Has Reviewed

Charles R. Esherick, Esq.  
Trial Attorney, Antitrust Division  
Department of Justice  
10th Street and Pennsylvania Avenue  
Washington, D.C. 20530

Dear Mr. Esherick:

Re: U.S. v. International Business Machines Corporation

Attached are lists of documents being withheld from inspection by IBM on national security grounds in accordance with affidavits submitted by the Director of Central Intelligence on 27 April 1972 and 18 January 1973.

The attached listings do not include a substantial number of documents which have previously been withheld, but are now undergoing declassification. In most cases declassification can be accomplished only by deleting portions of the documents. We believe that the necessary deletions will not materially change the documents insofar as IBM's needs are concerned. These declassified documents will be available for inspection by IBM at CIA Headquarters.

Based upon the results of IBM's earlier inspection of unclassified documents, we believe they will find only a very few of the listed documents germane to their case. When they have identified listed withheld documents, which they feel would be germane, we will again consider the sensitivity of those documents and attempt to reach an agreement whereby pertinent parts of them can be declassified and made available to IBM. We believe that by proceeding in this manner, there will remain

relatively few documents which IBM feels it needs, but which we find too sensitive to be used as evidence in this case.

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Sincerely,



Associate General Counsel

Atts

OGC:JDM:ks

Original - Addressee

1 - OGC Subj: LITIGATION - CIVIL  
1 - JDM Signer  
1 - Chrono

NOEP WILL CHECK CLASSIFICATION TOP AND BOTTOM			
OFFICIAL ROUTING SLIP			
TO	NAME AND ADDRESS	DATE	INITIALS
/1	Mr. Charles Esherick Rm. 3316, Main Justice		
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ACTION	DIRECT REPLY	PREPARE REPLY	
APPROVAL	DISPATCH	RECOMMENDATION	
COMMENT	FILE	RETURN	
CONCURRENCE	INFORMATION	SIGNATURE	

## Remarks:

Per telecon with Eugene Katz:

Last 18 pages of Attachment 1 is a mixture of unclassified and classified material. The unclassified documents have already been examined by IBM. There is no way for us to correct these pages to include only the withheld classified items and still meet your deadline of noon today.

STATINTL

Associate General Counsel

FOLD HERE TO RETURN TO SENDER			
FROM: NAME, ADDRESS AND PHONE NO.			DATE
			12/7/73
	UNCLASSIFIED	CONFIDENTIAL	SECRET

FORM NO. 1-67 237 Use previous editions (40)

NOTE ATTACHED TO OGC 73-2265